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ADDRESS

DELIVERED BEFORE THE

Two Literary Societies

OF THE

UNIVERSITY OF NORTH-CAROLINA,

June 1, 1853,

BY

HON. A. O. P. NICHOLSON,

OF TENNESSEE.



RALEIGH:

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1853.



DIALECTIC HALL, *June 2, 1853.*

SIR:

Having been appointed a Committee, in behalf of the Dialectic Society, to tender you the thanks of that body, for the very able, instructive, and patriotic Address which you delivered yesterday before the two Literary Societies, and to request of you a copy of the same for publication, we most earnestly hope you will not deny us a gratification so pleasing and a treasure so inestimable.

Permit us to express the very great pleasure we experienced during its delivery, and to add our personal solicitations to those of the Society which we represent.

With the highest regard,

W. L. ALEXANDER,
R. B. JOHNSTON, } *Committee.*
W. LAFAYETTE SCOTT,

Hon. A. O. P. NICHOLSON.

WASHINGTON CITY, *August 1, 1853.*

GENTLEMEN:

Yours of June 2d has been received, requesting a copy of my Address at the late Commencement at Chapel Hill, and insisting on my compliance. It is difficult for me to overcome my aversion to the publication of a production which was prepared under circumstances which rendered it impossible for me to do justice to the occasion for which it was designed. But lest my refusal might be misconstrued, I forward a copy, and submit the disposition of it to your discretion.

For the kind reception which I met from the Dialectic Society, and for the compliment implied in their resolution, I ask you to convey to the members, whilst you accept for yourselves, my unfeigned thanks.

Very respectfully,

A. O. P. NICHOLSON.

Messrs. ALEXANDER, }
JOHNSTON, } *Committee.*
SCOTT, }



ADDRESS.

Gentlemen of the Philanthropic and Dialectic Societies:

I propose to redeem my promise to address you on this occasion, by submitting, for your consideration, a few practical remarks upon the influence and responsibilities of the Lawyer. It has occurred to me that this subject might be appropriately and perhaps profitably discussed before an audience of whom a liberal portion is doubtless looking forward to the legal profession as the field of their future labors, and rewards and honors.

When I speak of the lawyer, I mean an educated man—one whose intellectual faculties have been developed, disciplined and enlarged, preparatory to the labors of the professional student, and who has successfully encountered the obstacles which lie in his path as a student, and so far progressed in the science of the law as to entitle him to a place in the Temple of Justice, as one of her authorised advocates. It is the influence exerted by such a man on society, and the consequent responsibilities which attach to his position, on which I desire to enlist your indulgent attention during the next hour.

My subject leads me, at the threshold, into the consideration of the power of mind over mind. I shall not be guilty of the presumption and folly, however, of undertaking to analyze the inherent properties and constituent elements of mind, or to elucidate the mysterious process by which its power is made effective. That "mind is power" is a truism; but a limit was given to this power by Him from whom it emanated, and to attempt to pass this limit would be worse than folly. When God closed the wonderful work of Creation, and "saw every thing that he had made, and, behold,

it was very good," he prescribed the laws by which the vast machinery of the universe was to be governed. To enable man to discover the existence of these laws, to comprehend their modes of operation, and to build upon them systems of science, he was made "a living soul"—and one of the noblest uses to which he can dedicate the capacity thus given him, is to the discovery and development of the laws of nature, their combination into distinct systems of science, thereby contributing to the enlargement of the range of philosophy, and to the extension of human knowledge and happiness. Philosophy acknowledges no indebtedness to the creative powers of those profound intellects which have, from time to time, penetrated into the deep mysteries of nature, brought to light the eternal laws of her government, and upon their discoveries based their claims to immortal honors. The work of creation was finished in the beginning, and was committed to man for his investigation and comprehension. This task has given full employment to the most capacious minds that have illumined the progress of scientific research, and the task is yet unfinished. In the material world "the march of mind" has been constantly onward in the enlargement of the boundaries of natural philosophy; but comparatively few triumphs have been achieved in the development of the laws of our moral government. It is not to be doubted that the laws of mind and of morals were originally prescribed with as much certainty and distinctness as were those of matter. But whether they were designed from the beginning to be susceptible of only imperfect development, in consequence of the disturbing influences of the affections and passions, or whether the obscurity which hangs over our moral nature is one of the results of man's first disobedience, I shall not undertake to determine. Our discoveries have gone far enough to enable us to know that there are laws regulating the intercourse of soul with soul; and though we may not be able to build upon our discoveries in this ethereal field, systems of mental and moral philosophy, distinguished by the demon-

strative certainty of the physical sciences, yet we may turn the little that we do know to profitable account. We know as certainly that mind attracts mind and that virtue attracts virtue, as we do that matter attracts matter ; and it is by no means improbable that these different species of attractions are governed by laws strictly analogous. As the natural philosopher will not undertake to say what the gravity of matter *is*, but only what it *does*, much less would I be expected to say what the gravity of mind or of morals *is*. I am content to know that it *exists*, and upon this knowledge, to point out the power and influence exerted by the educated man over society.

It will be observed, that when I speak of an educated man, I speak of one whose moral as well as his mental faculties have been properly cultivated. Superior mind is inherently powerful and influential ; but when unregulated and unrestrained by a pure moral standard, it is a power to be dreaded.

If the truth of this remark needed confirmation, it may be signally illustrated by reference to the causes recorded in history, as having contributed to the French Revolution. This great event, out of which grew wars that embroiled all the nations of Europe, is attributed, in no small degree, to the influence exerted upon the popular mind and public morals of France, by the powerful intellectual efforts of her distinguished writers, amongst whom stand conspicuously the names of Helvetius, Voltaire, Rousseau and Diderot. The philosophy of Helvetius was a refined system of materialism, and was little else than a revival of pagan epicurianism. But it was congenial with the taste of the times, and was therefore adopted with avidity. Voltaire attempted no new system, but sought rather to render all systems absurd by his powers of sarcasm and ridicule. He is distinguished as the chief apostle of French infidelity, and was idolized as the oracle of his age. "He put the ball of atheism in motion, and others followed in a bolder track ; pushed out, not his principles, for he had none, but his spirit into the extreme of

mockery and negation.” Rousseau wrote elegantly in praise of unsophisticated nature, and professed to love the simple and the natural, whilst he really seduced the weak and susceptible by his fascinating appeals to passion, and devoted his life to gilding what is corrupt, and glossing over what is impure. Diderot was not only an open atheist, but a fierce democrat by profession, and taught that truth was a mere delusion, and virtue but a name. From 1751 to 1765, he made his *Encyclopedia* the channel through which he poured a continuous stream of contagious poison upon the excitable minds of his countrymen, corrupting the fountains of thought, effacing in the French mind the image of God, and preparing the way for “the reign of terror” which succeeded.

The history of the intellectual triumphs of the French writers, to whom I have adverted, furnishes an impressive illustration of the power of mind, and especially of its power for evil, when uncontrolled by a sound moral regulator. But our own Revolutionary history furnishes an illustration not less striking. Thomas Paine was deeply, and no doubt sincerely imbued with republican principles. Burke said of his “*Common Sense*,” that “that celebrated pamphlet prepared the minds of the people for independence”—and Jefferson declared that Paine “had labored with as much effect as any man living for the principles of the Revolution.” Unfortunately, however, for his reputation, he became infected with the prevailing epidemic of French infidelity. He published his “*Age of Reason*,” and was idolized by French infidels; but thereby forfeited forever the high renown which he had won by his previous labors in the cause of rational freedom, both in England his native, and America his adopted country. Had he been content with his fame, as a co-worker with the fathers of the Republic, his name would have gone down in company with theirs to the latest posterity, as one of the boldest and ablest pioneers in the cause of freedom. But he dared to turn the batteries of his vigorous

mind against the divinity of the Christian religion, and when against the throne and monarchy of God he raised impious war,

“Him the Almighty power
Hurled headlong flaming from the ethereal sky,
With hideous ruin and combustion down
To bottomless perdition.”

But his “Age of Reason” survived him, and with it has been perpetuated his power for evil. He is still the oracle of thousands of superficial thinkers, who lack the capacity to detect the sophistry of his assaults upon the Christian system.

The individual examples which I have adduced, will suffice to illustrate the power of mind, and the dangerous character of this power, when directed against the cause of virtue and morality, or when unregulated by their chastening influence. I have not selected these extreme cases, merely because I see a strong tendency in the times to infidelity; but my object mainly is, to present extreme cases that I may impress upon your minds the important truth, that the educated man is necessarily a man of power either for good or for evil.

If the educated man carries with him into the world so tremendous an engine of power, how essential to his own happiness, and to that of society, that it should be exerted only for the accomplishment of good! In arranging the laws for his moral government, Providence has furnished every man with a sure guide for the regulation of his intellectual powers. He carries in his bosom a faithful sentinel, who is ever ready to sound the alarm when danger approaches. Unseared, unbruised, and unperverted Conscience may be safely followed, as the true touchstone of virtue. But if her “still small voice” is unheeded, and her admonitions repeatedly disregarded, she retires from her post and ceases to keep vigils over the approach of the enemy. She is too sensitive to submit to habitual neglect. Like the mind, whose sentinel she is, her powers may be cultivated, improved and en-

larged. It is as much the business of education to enlighten the conscience and give it strength and capacity, as it is to shed light upon the understanding and give vigor and power to the mind. With all his proclivity to the indulgence of his vicious propensities, man has an innate love of virtue. Crime has seldom, if ever, been able to eradicate and destroy in the soul this appreciation of the attractiveness and excellence of pure morality. Conscience may become powerless in her own household, but she never ceases to sympathize with virtue in others. Virtue never exhibits so brightly her real excellence as when she comes in contact with vice. Crime cloaks itself in her pure habiliments, and under this disguise seeks to cheat the scrutiny and the ends of justice. Passion works under the semblance of virtue, and commits its ravages under the exterior of morality. Avarice gathers her heaps of treasure by extortion and oppression, but she operates under the name of right and justice. Ambition wins its way to distinction, but its frauds and deceptions are gilded over with loud professions of honesty and patriotism. Such is the tribute paid by vice to virtue—its beauty is universally conceded—its excellence counterfeited—and its influence appropriated by its worst enemies.

If there is so much attractiveness and power in virtue, that passion, vice and crime find it necessary, for their success, to *seem* to be its votaries, its constant and sedulous culture cannot be too earnestly impressed upon the attention of my audience. If I might presume to question the perfection of the prevailing systems of education, I would suggest that an undue proportion of attention is devoted to the development of the intellectual, to the neglect of the moral faculties. I know that the true place to begin the cultivation of the moral sense is at the family altar, and that the best teachers are the father and mother ; but I know, too, that there is a heavy responsibility resting on parents for the neglect of this branch of education. Every child has a right to claim of its parents, not merely that the faculties of the mind shall be trained and dis-

disciplined, but that he shall be furnished, by precept and example, with a model of pure morality, which shall make truth, candor, honesty, and virtue the objects of his love.

But the neglect of this branch of education, so far from excusing, only increases the responsibility resting upon the man of cultivated mind. He cannot exert in a proper manner the influence which properly belongs to him, without an elevated standard of morality. He has the capacity to correct the omissions in his early training ; and by the lights furnished by his own conscience, aided and supported by the investigations of moral philosophers, to adopt a code of ethics which will enable him to exert all the power that belongs to a combination of cultivated mind and morals. The philosophy of education consists in cultivating, expanding and disciplining the intellectual and moral faculties ; and its great object is to prepare the man for exercising the greatest amount of influence for the advancement of the best interests of society. This end can only be attained by a combination of the powers which belong to mind and morals. I would not undervalue the able treatises on moral philosophy which are used in the schools ; but I place the Books of the New Testament, regarded simply as a system of moral philosophy, and without reference to their divine character, as standing far above them all. Virtue is nowhere illustrated with so much attractive beauty and simplicity as in the lives and doctrines of Christ and his apostles. Viewing them only as moralists, without divinity or inspiration, they have laid down a system of ethics, so simple, pure, comprehensive and beautiful in its principles, and have illustrated their excellence by so much disinterestedness and benevolence, that it commands our admiration and assent at once, as the perfection of morality, and points unerringly to the divinity of its origin. To this code I would invoke every educated man to go for that pure and elevated standard of virtue which must be the handmaid of his cultivated mind, if he clears his skirts in executing the trust committed to him. He cannot enter safely to

himself or to society upon the active scenes of life, without this shield to protect him against the assaults and temptations of passion which will beset his path. Without the ægis of virtue, he is in constant danger of becoming a victim to unhallowed propensities, and then, by the exercise of the inherent powers of mind, of becoming the means of victimizing others. It should be ever borne in mind, that man is an imitative being ; and as he finds it easier to imitate the errors and vices associated with great minds, than their exhibitions of intellectual superiority, he readily adopts the former, and deludes himself, and seeks to delude others with the idea that his very vices are evidence of his superiority. Vice loses its native hideousness when seen in friendly association with genius, and when gilded by the light reflected from its brightness.

If I have been successful in fixing your attention upon the character of the power wielded by the educated man, my first object has been accomplished, and I am prepared to proceed to illustrate this power, as it is exhibited in the influence exerted by the lawyer in the different theatres in which his ambition calls him to play his part. I might as readily give similar illustrations in the career of the members of the other learned professions, but I will not venture to make so unreasonable a draft on your patience.

The spirit of progress, which is characteristic of our times, is working out a most desirable reform in the science of law. It was long a standing reproach to the profession, that too many of its members sought rather to become proficient in the subtleties and technicalities of the law, than to excel in developing the fundamental principles of justice and equity, on which the science is based. The course of justice was embarrassed, delayed, and too often defeated, amidst ingenious and artful efforts to excel in special pleading. This system of legal chicanery provoked the merited sarcasm and rebuke of eminent English writers, and gave plausibility to the opinion expressed by Burke, that the practice of the law

disqualified the mind for those liberal and enlarged views which were essential to eminent statesmanship. It gave rise also to the truthful remark of Bolingbroke, that the law, in its nature, is the noblest and most beneficial of the sciences, but in its abuse and debasement the most sordid and pernicious. But the profession is no longer obnoxious to the reproach of attaching undue importance to the technicalities and subtleties of the science. Lawyers now strive to become eminent as expounders of the law, according to its reason and spirit, seeking to climb up to the vantage ground—as Lord Bacon calls it—of science, rather than to become experts in the art of perverting and defeating the ends of justice. For this valuable reform we are indebted to the liberal and enlarged views of the bench and the bar, as much as to the wisdom of legislation. The result is, that the law is now what it was always designed to be, THE SCIENCE OF JUSTICE. It is the science which defines and guaranties the rights of life, liberty, property and reputation. It interposes its powerful arm between the strong and the weak, the rich and the poor, the exalted and the humble, the learned and the ignorant, and settles their rights according to one uniform standard. In its wide range it embraces the rights of nations, and defines them with accuracy, whilst it points out the means of preserving and protecting them. Its grand object is even-handed justice to all. How deeply is it to be regretted, that a science so noble in its nature should ever have been degraded by any of its votaries, to a mere trial of wits in the use of technicalities and forms! How humiliating, that Lord Coke himself should have held out an inducement to the law student to fritter away his genius, in becoming an expert in the art of special pleading, by the remark, that in his time the skillful special pleader never failed of a lucrative practice. The man who follows the law, with no higher purpose than to secure a lucrative practice, may become prominent as an ingenious and acute practitioner, but he will never win the reputation of a truly great lawyer. Wherever

the passion for the emoluments of the profession is predominant, "the tricks of the trade" are sure to be cultivated, as the means of success. He who forms a just conception of the principles of the law, and entertains a proper appreciation of the true dignity and morality of his profession, will look to its emoluments as a secondary consideration. Its honors, whether derived from the triumphant vindication of the principles of justice in the course of his practice, or from promotions to high and responsible judicial or political stations as the rewards of his superior attainments, will be the leading and controlling incentives to his ambition.

How wide is the field within which the lawyer may legitimately indulge his aspirations for fame! If his ambition craves the homage paid so freely to great intellectual attainments, where else can the mind find such a theatre for the development of its powers, and the exhibition of its triumphs, as in its researches after truth and justice, buried deep as they often are under a mass of error, obscured by the ingenious devices of sophistry, entangled within the meshes of conflicting precedents, and, not unfrequently, made the victims of fraud and crime? If he aspires to the fame of an orator, where else within the range of the human sciences will he go to find subjects appealing so powerfully to his heart for its warmest sympathies, and enlisting so ardently all the generous impulses and energies of his nature, as in the practice of the law? Injured innocence, oppressed weakness, defrauded credulity, calumniated reputation, endangered liberty, threatened life—these constitute but a few of the themes which continually appeal to the eloquence of the lawyer. But if power and place possess attractions for his ambition, the genius of justice invites his aspirations to the bench. There he can hold the scales of right, and signalize his devotion to truth, by rewarding and protecting virtue and honesty. The lawyer is on the high-way to political distinction, and if he covets the fame of the statesman, his knowledge of the law has so far instructed him in the sci-

ence of government, that the transition is natural and easy.

The science of law not only affords ample scope for every variety of laudable ambition, but the extent of its learning is such as to give constant employment to the most capacious and expansive minds. No intelligent practitioner can delude himself with the idea that he has exhausted the fountains of legal knowledge, and that his life can be one of leisure and repose. Such a delusion would prove fatal to all his dreams of professional eminence. The lawyer is emphatically a working man, but whilst he is continually progressing and enjoying the consciousness of increasing knowledge, he has no hope of ever attaining to perfection in the science. Let not this remark, however, discourage any generous mind which is inclined to the law. If the labor of the lawyer is severe and unceasing, it is constantly rewarded with new and valuable acquisitions of knowledge, which constitute the sources of the purest enjoyment. As he toils, the treasures of the science are opened up to his view and brought within his grasp, whilst the beauty, symmetry and dignity of his profession continually increase in attractiveness. The more he learns of the eternal principles of right and justice, the more he desires to learn. The mists which at first obscured his progress, and impressed his mind with "the uncertainty of the law," gradually clear away as he advances. What he once suspected was a mere chaos of confused and conflicting opinions and inconsistent *dicta*, he now finds to be a system of symmetrical principles, all harmonizing with each other, and each one traceable to the great fountains of the science—right and justice. It is not until he begins clearly to comprehend the reason and spirit of legal principles, that the lawyer labors with real intellectual pleasure. From that time his progress is onward and easy, from one acquisition to another, enjoying triumph after triumph, with a mind elastic with delight, and eager for new researches. But at the close of a long life he will never have to regret that there are no more acquisitions to be made.

Whatever direction his ambition takes, the lawyer must owe his success to the influence which he exerts upon mind. He must not only convince the judgment by the force of logic, but he must control the will by the powers of persuasion. There is a constant antagonism kept up in our moral government between the understanding and the will—the result of the captivity of the will to the passions and affections. We see the right, and approve it—condemn the wrong, and yet pursue it. The lawyer has but half accomplished his work when he enlightens and satisfies the understanding—it is to be completed, by breaking the chains which bind the will to the car of the passions ; he must bring about harmony and concert between the judgment and the will ; when he has effected this, his triumph is complete. It is apparent that the successful lawyer must be deeply learned in the science of human nature. When the understanding is resisted by the will, he must be able to comprehend the character of the influence which stands in the way of their harmonious action. This resistance sometimes originates in prejudice or partiality ; at others, in mere passion ; and at others, in moral obliquity or depravity. The remedy must be suited to the disease. To discover the disease and apply the proper remedy, is often the most difficult, delicate and responsible duty that devolves on the lawyer. A blunder may involve consequences fatal to the ends of justice, may overwhelm innocence with ruin, or even put life itself in jeopardy. To be able to exert a salutary influence on others, the lawyer must know himself. He carries in his own bosom a mirror in which he may see reflected all the passions, affections, sympathies and feelings which furnish motives and suggestions appealing to the will against the decisions of the understanding. He cannot hope for complete success unless his own mental and moral perceptions are clear, distinct and accurate. It is not enough to be able to theorize fluently and plausibly and even correctly on the beauty and excellence of virtue ; but to exert his full influence, he must not only speak from his heart,

but his habitual practice should constitute "proof as strong as Holy Writ" that his judgment, his affections, and his sympathies are enlisted in behalf of right and justice. His own bright example should be a living commentary on the beauty and loveliness of virtue. To such a lawyer the judge on the bench, the jurymen in the box, and the people in their primary assemblies open their hearts and listen with confiding attention. When such an one has gained the assent of the understanding, and seeks the sanction of the will, prejudice, passion and crime shrink from the contest, whilst conscience throws off her shackles and responds to the gentle persuasions of his eloquence, and right and justice become triumphant.

It is essential to the peace and happiness of society, that its members should be impressed with an abiding confidence that the law affords a sure and certain protection to their rights, against violation or invasion. It is this sentiment which gives energy to enterprise, vigor and cheerfulness to industry, and life and elasticity to patriotism. The legal profession is mainly responsible for the maintenance and perpetuation of this sentiment. It is difficult to estimate the extent of this influence exerted by the lawyer and judge on the popular mind. It is indicated, however, in the confidence with which the citizen who considers himself aggrieved appeals to the judicial tribunals of his country, and in the cheerfulness with which he submits to their adjudications. The sacred honor of every lawyer who comprehends and appreciates the true dignity and responsibility of his profession, is freely pledged for the preservation of this sentiment.

Every community is under the government of two distinct codes of laws—the one written and the other unwritten—the one based on legislation and the other resting on public sentiment. The unwritten laws prescribe the rules of social government and regulate the standard of morality. Much of the happiness of every society depends upon the tone of moral sentiment which pervades it. All educated men exert an in-

fluence on the popular mind; but the lawyer is brought so immediately and so constantly into contact with the masses, that his influence is peculiarly strong. He operates upon public sentiment, not only by the inherent power of superior over inferior mind, and by the opinions which he utters in the course of his profession, but his example carries with it an unseen and potent weight. If he is loose and irregular in his morality—if he indulges in giving utterance to sentiments of infidelity or impiety—if he makes virtue the object of his ridicule, and scoffs at morality as pharisaical hypocrisy—he diffuses around him an influence which poisons public sentiment and gives countenance and encouragement to vice and crime. On the other hand, if his legal discussions are pervaded and characterized by sentiments of pure morality, and his private intercourse and deportment reflect a similar devotion to truth, candor and virtue, he contributes powerfully to elevate the tone of the popular mind, to purify the standard of popular morals, and to promote the quiet, good order and happiness of society. These are the legitimate influences of a combination of enlightened mind and sound morality. How responsible the trust which the lawyer undertakes to execute! He assumes to be the protector of the rights which give value to freedom and happiness to life—to be the guardian of Innocence and the advocate of Justice! If his practice conforms to his profession, he becomes the herald of Virtue and the missionary of Morality. His pathway in life is illuminated by the light which radiates from his own bright intellect, whilst the emanations from his example are as a pillar of fire for the guidance of the steps of others.

The influence of the lawyer rises in dignity and grows in weight and extent, when he is promoted from the bar to the bench. In view of its honors, he has then reached his topmost round on the ladder of professional elevation. To the man who is ambitious of legal distinction, the bench is the theatre in which his professional fame may be consummated and perpetuated. The judge undertakes to illustrate the ex-

cellence of the science of law by practical application of its principles to the attainment of justice. One of the main pillars of government rests upon him, and to sustain the burden, he must have Atlantean shoulders. The rights of life, liberty, reputation and property are committed to his guardianship, and his adjudications are final. To him is entrusted the exposition and preservation of the fundamental law—the constitution, to which all legislation must conform. Whilst the law invests him with powers, in many respects supreme, he is, to a great extent, exempt from responsibility for their abuse. In the exercise of his official authority, the judge is necessarily entrusted with a larger discretion. No greater calamity could be visited on any community than to have the administration of the law committed to a weak, wicked, tyrannical or corrupt judge. Considering the extent of his powers, his exemption from responsibility, and the proneness of power to abuse, it is remarkable that history records so few instances of judicial dereliction and depravity. It abounds in illustrious examples of ability, purity and learning on the benches of all civilized nations; but it is seldom that the profession has been disgraced by the tyranny or corruption of its presiding officers. This fact, constituting in itself the highest eulogy on the legal profession, may be mainly attributed to the influence exerted by the bar in the promotions to the bench, and in the restraint imposed upon judicial conduct through the power of public sentiment. There was profound wisdom in the remark of one of the fathers of the Republic, Franklin I believe, that the judges ought to be elected by the lawyers. Its wisdom is illustrated in the well known fact that wherever the appointing power is lodged, its exercise is materially controlled by the legal profession. But public sentiment furnishes a far more efficient guaranty against judicial derelictions, than strikes the view at first blush. In regard to the official demeanor of the judge, public sentiment derives its first and most effective impulse from the bar. As a class, lawyers are sensitively jealous as

to the maintenance of the purity of the judicial ermine, and vigilant in detecting the first blot that stains its integrity. Their own professional reputation is identified with the official bearing of the judge, and hence they promptly claim the right, and boldly exercise it, of criticising his errors, rebuking his delinquences, and denouncing his corruptions. The popular mind responds approvingly to the impulse thus given by the bar, and public sentiment pronounces a judgment which judicial power cannot resist.

Whilst it is the first and most important duty of the judge to administer the law according to right and justice in all individual controversies, there are incidental influences attached to his station of too much consequence to be overlooked. His official acts are clothed with the sanction of authority, and on that account, as well as from their consonance to justice, they command respect and approval. But the habitual deference paid to the official opinions of the judge, readily generates in the popular mind the conviction that his unofficial sentiments are entitled to a similar respect. Regarded as the just judge is, as a model of intelligence, uprightness and purity in his official relations, it is not unnatural to look upon these attributes as constituting part and parcel of his personal character. Indeed, there is something revolting in the idea, that when on the bench the judge should make equity, right, and justice his polar star; and yet when he descends from that elevation, that he should disregard the moral obligations, give loose reins to his vicious propensities, or utterance to sentiments at war with virtue. The popular mind is astute in detecting such inconsistency, and is slow to concede that learning alone is sufficient to insure purity in the administration of justice. Before the judge can exert that semi-official influence on public sentiment, which legitimately attaches to his station, his private as well as his judicial deportment must meet the sanction of the popular judgment, and command its cheerful confidence. The power of mind and morals combined, is nowhere displayed more con-

spicuously and beautifully than in the influence exerted by such a judge on public sentiment.

What we denominate public sentiment, is the judgment formed by the popular mind on any given question of morals, politics, or religion. In theory, each member of the community investigates, analyses and reasons on the question for himself ; but our observations teach us that the investigation and reasoning on which the popular judgment is formed, is the work of a comparatively few minds. The conclusions of the few are either ratified or rejected by the minds of the masses, and the prevailing judgment becomes public sentiment.

Whatever may be the truth of history in other governments, it is established by every page of our own, that public sentiment is our great social, political and moral regulator. Statutes and constitutions bow to its dictation and yield to its power. It is our High Court of last resort ; and by its adjudications our customs, our laws, and our constitutions stand or fall. It prescribes the rules of social government, and modifies and reverses them at pleasure. It dictates the course of legislative bodies, gives force and effect to their deliberations and actions, or paralyses and nullifies them at will. It overthrows monarchies and drives tyrants into exile, or sweeps away republics and erects upon their ruins unmitigated despotisms. In its decisions it has no regard for uniformity or consistency of action—its decrees of to-day are unhesitatingly reversed by those of to-morrow—but until reversed by its own will and judgment, they stand as the supreme law. When goaded on by ignorant passion, or impelled by blind fanaticism, its march over existing institutions is marked with the terrific violence of the tornado ; but when influenced by enlightened reason, and controlled by sound morality, its course is characterized by the gentleness and noiselessness of the evening zephyr. This is the chief instrumentality through which mind displays its power over mind in politics and morals, and the means through which the law-

yer exerts his greatest influence, whether in the strict line of his profession, or in judicial positions, or as a statesman.

The most illustrious examples of the power of mind are to be found in the history of the legal profession, in connection with affairs of government. Ambition delights in the law as a favorite stepping-stone to political distinction. In every civilized nation it has furnished the ablest champions of liberty, and the most eloquent opponents of tyranny and oppression. The most brilliant triumphs achieved by Cicero were gained in defence of the liberties of Rome. By his disinterested patriotism he won the hearts of the people, and by the power of his eloquence he was able for a time to maintain a successful contest with military ambition. It has been eloquently said, by one of our most distinguished statesmen, that "the Roman lawyers or civilians of the greatest celebrity, and whose judicial opinions were held in the highest esteem, even under the despotic sway of the empire, were not less distinguished by the integrity of their private character than by their talents and ability. Justice was so much their idol; so fixed and resolute was their sense of right, that neither the temptations of avarice, nor the splendor of official station, nor the threatening brow of a tyrant could corrupt or intimidate them." In modern times, England has furnished a host of eminent lawyers and judges, not less illustrious for their private virtues than for their learning and eloquence. They have signalized their own names, and shed lustre upon their country's fame by their unyielding opposition to arbitrary power and despotism—by their fearless denunciations of the tyranny of their own rulers, and their unwavering devotion to law, order and right, amidst all the storms of faction, the threatenings of tyrannical power, and the clamor of wicked agitators and demagogues. The liberties of Great Britain may be correctly said to rest upon the English bar.

The fame of our own country derives a large share of its splendor from the exalted virtues, learning and patriotism,

which have characterized the career of distinguished members of the legal profession. In the able discussions as to the right of self-government which characterized our colonial history, the lawyer and the judge were amongst the master spirits. They helped by their genius and their eloquence to kindle the fires of the Revolution ; and in all its labors, sacrifices, dangers and honors they were prominent sharers. When independence was secured, they were the master-workmen in laying the foundation of that noble superstructure of republicanism, which, resting on the solid basis of our federal constitution, secures vigor, strength, and I fondly hope, perpetuity to our federal Union. To the legal profession is assigned the honor and the responsibility of filling exclusively one of the departments (and not the least important) of the government. All the Presidents, except two, who have occupied the Executive Department have been lawyers, whilst a large majority of the Cabinet officers and foreign ministers, and a large portion of the Senators and Representatives who have held seats in Congress have belonged to the same profession. These facts speak volumes in favor of the legal profession, and furnish some idea of its influence in our government.

In attempting to call up to your minds the prominent influence exerted by the legal profession upon the destinies of our government, I am actuated by no wish to indulge in unprofitable eulogy. I would have you to study the lives and characters of the eminent lawyers, jurists and statesmen who have identified their names with the glory of our country. If it were possible to strike from history all traces of their influence in the affairs of government, our national escutcheon would emit but a dim pale light, in comparison with its present dazzling brightness. But what is it in the character of our distinguished public men that constitutes their crowning glory, and hallows their names and their influence? It is not simply that they were men of gigantic intellectual powers, but it is, that associated with these powers was a deep

devotion to virtue, which chastened their ambition and gave to their actions all the moral force which belongs to genuine patriotism. When Mr. Webster had exhausted the powers of his great mind in portraying the character of Jeremiah Mason, he gave the finishing touch to the picture when he said :

“ But political eminence and professional fame fade away and die with all things earthly. Nothing of character is really permanent but virtue and personal worth. Mr. Mason’s religious sentiments and feelings were the crowning glories of his character.”

Death achieves no victory over such a character—it only embalms his name, consecrates his fame, and perpetuates his influence. Our national annals abound in illustrious members of the bar,

“ Who shed great thoughts
As easily as an oak looseneth its golden leaves,
In a kindly largess to the soil it grew on—
Whose rich dark ivy thoughts, sunned over with love,
Flourish around the deathless stems of their names—
Whose names are ever on the world’s broad tongue,
Like sound upon the falling of a force—
Whose words, if winged, are with angel’s wings—
Who play upon the heart as upon a harp—
And make our eyes bright as we speak of them.”

Without undertaking to make a full enumeration, I would most earnestly invite you to study the lives and characters of such lawyers as Mason, Jay, Pinckney, Parsons, Wirt, Chauncey, Marshall, Story, Kent and Gaston, and their illustrious compeers, living and dead, in professional renown. Their lives abound in instructive lessons of wisdom. An earnest love of virtue and a constant devotion to Christian morality will be found to pervade their characters, and to shed over them their richest charm. They won distinction by their superior intellectual achievements, but they won their claim to true greatness by their devotion to virtue. It is this that

shines out as the richest jewel in the coronet of their fame. It is this that gives immortality to their influence as well as to their names.

If any of my young friends, whose minds are inclined to the law as a calling, are impressed with doubts as to the morality of the profession, I earnestly pray all such to study carefully the career of the distinguished men to whom I have alluded ; and if their minds are not thoroughly cleared of all doubt, in the name of the profession I implore them never to enlist under the legal banner.

If I have been successful in impressing you with a sense of the power which the lawyer wields in the several theatres of his ambition, you will readily perceive the consequent responsibility which attaches to the exercise of so perilous a trust.

To meet that responsibility and to fulfil its obligations, all history, experience, observation and reason, combine to demonstrate that with the cultivated, enlarged and disciplined mind, there must be associated a pure and elevated code of morality—a code based on the truth of Christianity, and conforming with its purity.

The history of the world furnishes nothing which bears comparison with the past career of our government in all the elements of greatness and prosperity. Its contemplation fills the patriotic bosom with emotions of national pride, whilst it awakens sentiments of profound gratitude to the overruling Providence who has watched our progress as a people with paternal care. But I am pained to acknowledge that there are “signs in the times” which may well excite fearful apprehensions as to the future. I have been greatly at fault in my observations, if there is not, now, an alarming tendency in the public mind to yield to strange heresies and delusions which strike at the very foundation of true morality. Imposture, with brazen face, stalks boldly through the land, and crowds of enthusiastic votaries shout around its standard. Under constant professions of reverence and veneration for

the Christian system, its very corner-stone is being undermined by the working of a disguised materialism. The assaults of infidelity are not now made openly and boldly, as in the days of French atheism, but it may be well doubted whether they are less effective because covert and indirect. The amazing developments in the career of scientific research, which are constantly startling the public mind, seem to have unloosed it from its moorings, to have destroyed all limit to its credulity, and to have impressed it with the conviction that nothing is so absurd as not to command credence. This entire brood of delusions, from Mormonism to spiritualism, are converging in their tendency to one common result—the subversion of the authority of the Bible, and the erection in its place of a system of natural religion. Against the successful spread of such fatal heresies, we have no other protection than in the efficiency of an unyielding adherence to the standard of morals adopted by the Christian system. The popular judgment and the popular heart must be fastened to this standard with hooks of steel ; and this is the legitimate work of the power and influence of the lawyer, jurist and statesman, in the formation and control of public sentiment. They cannot witness the diffusion of the spirit of insidious infidelity without feeling the heavy responsibility which rests upon them to resist its further progress. I am aware that it would be as idle to address reason and arguments to the maniac, as to most of the followers of these impostors. But their influence may be circumscribed and weakened by concentrating upon their heresies and delusions the earnest and effective condemnation of the wise and good, who *can* be made to comprehend and estimate their fatal tendency. So strong has been the conviction on the popular mind that the maintenance of the Christian system is essential to the continued preservation of our liberties, that it need but be shown clearly and forcibly that this great citadel of our freedom is assailed, to awaken a spirit of patriotic enthusiasm which will communicate to public sentiment irresistible efficacy. The

lawyer, in each of the theatres of his power and his glory, as lawyer, jurist and statesman, must become the champion of true religion—of pure morality—based on the rock of Christianity. His eloquent voice, sustained by his equally eloquent example, must arouse the popular mind from its torpor, enlist all its energies on the side of Christian patriotism, and thus erect around our happy institutions a wall of defence which will defy the assaults of fanaticism and infidelity in all their phases.

I am aware that the unparalleled success which has marked our career in self-government, has generated a feeling of confidence in the durability of our institutions which inclines us to listen with some degree of indifference to the cry of danger. Our experiment *has* proved eminently successful, but too much confidence may prove disastrous. It should never be forgotten that “eternal vigilance is the price of freedom.” The proud ship may ride triumphantly through storm after storm, her solid bulwarks defying the utmost fury of the angry billows ; and yet when her happy crew are glorying in their safety and in the strength of their gallant vessel, they may be carried to the bottom by the silent but persevering work of the smallest insect. The confidence of our people in the strength and durability of our government was never greater than at this moment. The noble vessel of state has but recently encountered successfully the most terrific storm that has yet crossed her path, and we are indulging in the happy repose generated by a sense of danger passed. The character and extent of that danger can never be forgotten. It exhibited with alarming clearness the points of weakness in our government. The spectacle exhibited during the late perilous crisis paled the cheeks of our bravest patriots, and caused the deep gloom of despair to hover for a time over the national heart. Hope herself, with a deadly heart-sickness, seemed almost ready to bid farewell to freedom as she gazed upon the sectional strife, the fraternal discord, the mad fanaticism, and the infuriated crimination and

recrimination which threatened us with the horrors of disunion.

But what a change came over the patriot's heart when the violence of the tempest abated, when the thick gloom cleared away, and the noble old ship of state was seen careering onward with her ancient firmness and steadiness, with her rigging all sound, and our national banner, in its original brightness, floating gracefully in the breeze, with our glorious motto uneffaced, and every star and stripe shining in its place ! A thrill of joy ran like electricity through the land. It was then that the national heart, in the fullness of its gratitude and the ecstasy of its delight exclaimed—God be praised ! our national Union is safe !

But is the Union safe ? Is the danger all over ? Is there nothing delusive in the repose and happiness which pervade the land ? Are we sure that the mighty billows which dashed with so much fierce fury against the strong oaken sides of the noble vessel, have made no impression ? Are we entirely certain that the little insects are not busily and successfully undermining her strength ? Would we feel no misgivings to see her subjected to another such trial ? Without touching here the forbidden tree of mere politics, may I not remind you that above the loudest thunder-claps that startled us amidst the storm, we heard the voices of Clay, of Webster and of Cass, pleading as men seldom ever plead before—for harmony—for compromise—for the Union. But we shall hear the voices of Clay and Webster no more, except as they speak from their tombs. They were spared only long enough to make their last their brightest days. Cass lingers behind them at three score and ten, but he too must soon follow his illustrious compeers in renown. When the danger comes again, who have we like this illustrious trio, to “ride upon the whirlwind and direct the storm ?” We cannot specify the individual names that will figure when the trial comes on ; but we can confidently predict that in its dangers, its labors, its disasters or its glories, the lawyer will have his full share.

Public sentiment has displayed its power in rebuking the unholy coalition between fanaticism and political ambition, but the elements of sectional discord and jealousy still exist. How long it will be before the fires of agitation shall be again kindled into a flame, will depend upon the success of fanaticism in forming new combinations. Whilst the arch-enemy of our institutions is availing himself of the prevailing repose in the public mind to gain additional strength, and beat up for new recruits for its next attack, it becomes the friends of the Union to be vigilant and active in preparing for the encounter. It is much to be feared that the standard of political morality, even amongst many eminent statesmen, is too low. If men in official stations can barter their influence for pecuniary considerations with impunity, it is a strong indication that there is a tendency to political depravity in the times. The same tendency may be inferred from the wide spread mania for office, for the sake of its emoluments, which mingles itself with our political contests. It may be doubted whether the spirit of frequent constitutional reform which pervades some of the States, does not indicate a state of restlessness in the public mind which is inconsistent with that respect for the fundamental law which is essential to the permanency of our institutions. It is neither to be expected nor desired, that in this age of mental illumination and progress the science of government should remain stationary ; but it is essential that its onward march should be characterized by a spirit of moderation and conservatism—that stability as well as progress should become our watchwords.

But without dwelling upon these evidences of social and political demoralization, I cannot refrain from alluding to another feature in the times, which strikes my mind as portentous of evil. I refer to the disposition manifested by some prominent men in different sections of the country, to enter deliberately into a calculation of the value of the Union, with an eye to its ultimate dissolution. Until recently, the announcement of such a proposition as susceptible of debate,

would have startled the public mind. The fact that it does not now excite astonishment or provoke indignation, constitutes it a fearful omen. Heretofore the chief business of statesmen has been to devise the means for the greatest amount of prosperity to be derived from systems and measures of internal policy ; but their great business now is, to preserve our institutions from decay or overthrow, to reconcile or harmonize the dissensions and conflicting interests of the different sections, and to restore and preserve fraternal relations amongst the members of the confederacy. The wise counsel of the father of his country on these questions seems to me to be an appropriate conclusion to my remarks :

“The unity of government which constitutes you one people, is also now dear to you. It is justly so ; for it is a main pillar in the edifice of your real independence ; the support of your tranquility at home ; your peace abroad ; of your safety ; of your prosperity ; of that very liberty which you so highly prize. But, as it is easy to foresee, that from different causes, and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth ; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed ; it is of infinite moment, that you should properly estimate the immense value of your national Union to your collective and individual happiness ; that you should cherish a cordial, habitual and immovable attachment to it ; accustoming yourselves to think and speak of it as the palladium of your political safety and prosperity ; watching for its preservation with jealous anxiety ; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned ; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.”

My young friends, I have now redeemed my promise—a promise which I made with much hesitancy, and which I fear I have fulfilled but little to your satisfaction. Your invitation was received with feelings of gratification and pleasure which none can fully realize but those who have been

separated for more than a quarter of a century from the happy scenes and companions of their youth, and who have been unexpectedly called to revisit those scenes and reunite with a portion of those companions. Such was my situation. But I hesitated to accept because I was sincerely distrustful of my ability to fill a station, even with respectability, which had been filled by others with so much distinction. My judgment, however, surrendered to my feelings, and I determined to throw myself upon your generous indulgence. And now, if in the feeble plea in behalf of virtue which I have made, I have succeeded in exciting a purpose in the bosom of any one of you to dedicate his life, with increased ardor, to her noble cause, I have been fully compensated, and the pleasure of my visit—arising from the renewal of old associations and friendships and the revival of happy recollections—is all clear gain. For the honor you have conferred on me, I tender you my profoundest gratitude; and on your behalf, I present to an overruling Providence my sincere prayer that your course through life may be marked by the richest blessings of Heaven.

